

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARILYN CORNELIUS,
Plaintiff,

v.

ORDER
11-CV-697-A

INDEPENDENT HEALTH ASSOCIATION, INC.,
Incorrectly sued herein as INDEPENDENT
HEALTH,
Defendant.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for pretrial proceedings. On May 31, 2013, Magistrate Judge McCarthy filed a Report and Recommendation, Dkt. No. 75, recommending that defendant's motion for summary judgment be granted by dismissal of plaintiff's Title VII claim on the merits, and by declining to exercise supplemental jurisdiction over the plaintiff's state law claims.

The Court has carefully reviewed the Report and Recommendation, the record in the case, including the objections and materials submitted by the parties, and having heard oral argument, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the defendant's summary judgment motion is granted in part as modified. The Court must read a *pro se* litigant's papers liberally, interpreting them "to raise the strongest arguments that they suggest." *Burgos v. Hopkins*, 14 F.3d 787, 790 (2d Cir. 1994). Defendant did not move for summary judgment against a hostile-environment theory alleged in plaintiff's

administrative charge of discrimination and incorporated by reference in her *pro se* Complaint. The claim may be time-barred, but it is not subject to dismissal at this time. The Court will retain supplemental jurisdiction over plaintiff's state law claims for the time being. The Report and Recommendation dismissing plaintiff's other Title VII theories of liability on the merits is otherwise adopted. The action is recommitted to the Magistrate Judge for pretrial proceedings pursuant to the terms of the Court's prior referral.

IT IS SO ORDERED.

_____*Richard J. Arcara*_____
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: March 31, 2014